

**BOROUGH OF WESTWOOD  
NOTICE**

**NOTICE IS HEREBY GIVEN** that the following Ordinance was introduced and passed on first reading on regular meeting of the Mayor and Council on the 4<sup>th</sup> day of December, 2018, and that said Ordinance will be taken up for further consideration for final passage at a regular meeting of the Mayor and Council to be held on the 18<sup>th</sup> day of December, 2018 at 8:00 p.m. or as soon thereafter as said matter can be reached, at which time and place all persons who may be interested therein will be given an opportunity to be heard concerning same.

Karen Hughes, Borough Clerk  
Borough of Westwood

**ORDINANCE# 18-42**

**AN ORDINANCE ADDING SECTION CHAPTER 195, ARTICLE XXIV  
TO THE WESTWOOD BOROUGH CODE, WHICH WILL BE ENTITLED  
“AFFORDABLE HOUSING MANDATORY SET-ASIDE”**

**INTERPRETIVE STATEMENT**

This Ordinance amends the Borough land use ordinances by establishing new regulations to ensure that any site that benefits from a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Borough or a Borough land use board that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of 20% for for-sale units and 15% for rental units; which regulations will be set forth in the Borough Code in connection with the Borough’s Third Round Housing Element and Fair Share Plan consistent with the terms of the Settlement Agreement reached with Fair Share Housing Center regarding compliance with the Borough’s affordable housing obligations.

**NOW, THEREFORE, BE IT ORDAINED** by the Borough Council of the Borough of Westwood, County of Bergen, State of New Jersey, as follows:

**Section 1.** Chapter 195, (new) Article XXIV of the Code of the Borough of Westwood entitled “Affordable Housing Mandatory Set-Aside” is hereby created and established to read as follows:

**§195-186 Affordable housing mandatory set-aside.**

- A. Purpose. This article is intended to ensure that any site that benefits from a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Borough or a Borough Land Use Board (except for the Borough’s R-1 Zone district) that results in multi-family residential development of five (5) dwelling units or more produces affordable housing at a set-aside rate of twenty percent (20%) for

affordable for-sale units and at a set-aside rate of fifteen percent (15%) for affordable rental units. This article shall apply except where inconsistent with applicable law.

**B. Mandatory Set-Aside Requirement.**

- (1) Any multi-family or single-family attached residential development, including the residential portion of a mixed-use project, that is approved to contain five (5) or more new dwelling units as a result of a subdivision or site plan approval, rezoning, use variance, redevelopment plan or rehabilitation plan approved by the Borough or a Borough land use board (except for the Borough's R-1 Single Family Residential Zone district) shall be required to set aside a minimum percentage of units for affordable housing.
- (2) For inclusionary projects in which the low and moderate units are to be offered for sale, the minimum set-aside percentage shall be twenty percent (20%); for projects in which the low and moderate income units are to be offered for rent, the minimum set-aside percentage shall be fifteen percent (15%). Where the set-aside percentage results in a fractional unit, the total set-aside requirement shall be rounded upwards to the next whole number.
- (3) Nothing in this article precludes the Borough or a Borough land use board from imposing an affordable housing set-aside in a development not required to have a set-aside pursuant to this article consistent with N.J.S.A. 52:27D-311(h) and other applicable law.
- (4) This requirement does not create any entitlement for a property owner or applicant for subdivision or site plan approval, a zoning amendment, use variance, or adoption of a redevelopment plan or rehabilitation plan in areas in need of redevelopment or rehabilitation, or for approval of any particular proposed project.
- (5) This requirement does not apply to any sites or specific zones for which higher set-aside standards have been or will be established, either by zoning, subdivision or site plan approval, or an adopted redevelopment plan or rehabilitation plan.
- (6) Furthermore, this requirement shall not apply to developments containing four (4) or less new dwelling units.
- (7) If the Borough's Settlement Agreement with Fair Share Housing Center ("FSHC") dated April 24, 2018, or the Borough's 2018 Housing Element and Fair Share Plan, establishes set-aside standards for any specific sites or zones which are different from the set-aside standards set forth in this article, the set-asides established for those sites or zones in the Settlement Agreement or Housing Element and Fair Share Plan shall govern.
- (8) Where a developer demolishes existing dwelling units and builds new dwelling units on the same site, the provisions of this section shall apply only if the net number of dwelling units is five (5) or more.
- (9) All subdivision and site plan approvals of qualifying residential developments shall be conditioned upon compliance with the provisions of this section.
- (10) All affordable units to be produced pursuant to this article shall comply with the Borough's Affordable Housing Ordinance at Chapter 61 of the Borough Code and the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.), as may be amended from time to time.

**Section 2.** If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

**Section 3.** In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Westwood, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Revised General Ordinances of the Borough of Westwood are hereby ratified and confirmed, except where inconsistent with the terms hereof.

**Section 4.** The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

**Section 5.** After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Planning Board of the Borough of Westwood for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

**Section 6.** This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

**Section 7.** This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

INTRODUCED the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

ADOPTED the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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John Birkner Jr., Mayor

ATTEST:

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Karen Hughes, RMC, Borough Clerk